

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/768,476	FOGELSON, BRUCE A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven B. McAllister	3627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**  
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment of 10/24/2005 and Examiner's Amendment.
2. ☒ The allowed claim(s) is/are 1,3-5,8-13,15-17,20-25,28,29,32-34,36 and 41.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|--|---|

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jon P.Christensen on 3/30/2006.

The application has been amended as follows:

#### **IN THE CLAIMS:**

Claims 2, 6, 7, 14, 18, 19, 26, 30, 31, and 37-40 were canceled.

In claim 1, line 17, --, and the first website having at least one page of offerings unique to each of the plurality of builders— was inserted after “customers”.

In claim 1, line 24, “a variety of related forms” was replaced with –at least one form--.

In claim 1, line 39, --at least one—was inserted before “filled”.

In claim 1, line 39, “forms” was replaced with –form--.

In claim 3, line 5, “promoting” was deleted.

In claim 3, line 5, “or” was replaced with –for--.

Art Unit: 3627

In claim 3, line 6, "discounts and advertising" was replaced with –discounts, advertising--.

In claim 3, lines 6-10, "providing lending, closing, title, tax, permits, insurance, inspection, appraisal, RESPA, utility, warrantee, and moving information services, and providing warrantee and" was deleted.

In claim 13, line 16, --, the means for providing a first website further providing at least one page of offerings unique to each of the plurality of builders– was inserted after "customers".

In claim 13, line 23, "a variety of related forms" was replaced with –at least one form--.

In claim 13, line 39, --at least one—was inserted before "filled".

In claim 13, line 39, "forms" was replaced with –form--.

In claim 15, line 5, "promoting" was deleted.

In claim 15, line 5, "or" was replaced with –for--.

In claim 15, line 6, "discounts and advertising" was replaced with –discounts, advertising--.

In claim 15, lines 6-10, "providing lending, closing, title, tax, permits, insurance, inspection, appraisal, RESPA, utility, warrantee, and moving information services, and providing warrantee and" was deleted.

Art Unit: 3627

In claim 25, line 16, --, the first website having at least one page of offerings unique to each of the plurality of builders-- was inserted after "customers".

In claim 25, line 29, "a variety of related forms" was replaced with --at least one form--.

In claim 25, line 42, "the term" was replaced with --the terms--.

In claim 25, line 44, --at least one--was inserted before "filled".

In claim 25, line 44, "forms" was replaced with --form and the selected options--.

In claim 41, line 7, --, the first website having at least one page of offerings unique to each of the plurality of builders-- was inserted after "provider".

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: informal Figures 1-37 must be replaced with formal drawings 1-37. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

The following is an examiner's statement of reasons for allowance: The claimed invention, in its broadest form is shown in claim 41. This claim recites

- a plurality of builders providing product offerings to customers through a first website provided by a third party website provide, the first website having at least one page of offerings unique to each of the plurality of builders;
- a customer and a builder entering into a contract to build or renovate

Art Unit: 3627

- the customer viewing and selecting product options of the product offerings through the website
- receiving from the customer through the website a selected option of the options
- incorporating the selected options into a modification of the pre-existing contract
- the third party website collecting a fee or commission based on the products viewed by and selections made by the customer

The closest prior art references are: Fino et al (5,991,769), Plaskoff (2001/0032062), and "RFP Marketing Opportunities Abound at 'Design Your Dream House'".

Fino shows a method using a standalone system wherein the customer and the sales associate use the system together to work through the sales process in the builder's sales office (see Background of Invention). In the method, standalone software provides offerings and options for that builder only; a customer and builder enter into a contract; the customer views and selects options via the standalone system; the system receives the customer's selections; and the selections are incorporated into a change to the contract.

Fino does not show that the builder's offerings are provided on a third party website along with the offerings of a plurality of other builders; that the selections are

Art Unit: 3627

received through a website; or that a third party website collects a fee or commission based on the products viewed by and selections made by the customer.

It would not be obvious to modify the method of Fino to place its offerings on a third party website along with the unique offerings of a plurality of other builders. Since the system is intended for use at the builder's site under its control, there would be no advantage to hosting its content in this way. Further, such a hosting method would be disadvantageous because the unique offerings of other builders would be available at the same website and would serve as a distraction in the sales process.

Further, it would not be obvious to modify the method of Fino to provide fees to a third party website since that would cause an extra cost.

Plaskoff shows a method in which a website is provided by remodeling company. However, in some circumstances (when the customer has selected custom options), the system refers the customer to a custom contractor. With respect to the custom contractor, the website can be considered a third party website. The method entails going through an offering and option selection process and referral to the contractor.

Plaskoff does not show that the website hosts offerings of a plurality of builders (it only shows handing off to a single third party contractor, not a plurality) and it does not have at least one page having offerings unique to each of the plurality of builders. It also does not show further selection of options via the website after entering into the contract, modifying the contract based on those selections, or receiving a fee at the third party website.

It would not be obvious to modify Plaskoff to show all elements of the claim.

Once the customer has selected options at the website, and the website has transferred the customer to the contractor, it would not be obvious to return to the website to select additional or different options. The website acts essentially as a referral to the custom contractor when the customer requests fall outside the scope of the remodeler which owns the website. As such, once referred, there would be no motivation to return to the remodeler's website for choosing options.

Further, it would not be obvious to modify the method and apparatus to provide at least one page of unique product offerings for a plurality of builders. The system's main purpose is to draw customer to the remodeler, and send customers who want work beyond that scope to a related custom contractor. So, it would not advance drawing customers to either the remodeler or the custom contractor to place the unique offerings of a plurality of builders on the website.

RFP shows a method and system in which a third party website is provided so a user can select house plans and select options, creating his "dream house". Once the option selection process is complete, the third party website forwards information to a plurality of contractors and receives bids from the contractors. If the customer signs a contract with one of the bidders, the website receives a fee.

RFP does not show providing at least one page having unique offerings for each of the plurality of builders – rather it shows generic options. Also, once the contract is

Art Unit: 3627

signed, it does not show receiving additional options at the website and modifying the contract based on those received options.

It would not be obvious to modify RFP to receive additional options at the website after the contract is signed and enter those into an amendment. The website acts essentially as a means to attract buyers and solicit bids from builders. Once the customer has contracted with the builder there would be no motivation to return to the third party website to select additional options since the relationship is between the customer and builder at that point and not the customer and the website.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister  
Primary Examiner  
Art Unit 3627

Steven B. McAllister

 3/29/07  
F. RYAN ZEENDER  
SUPERVISORY PATENT EXAMINER